
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 8:22-cv-01321-FWS-DFM

Date: February 2, 2023

Title: Michael Stewart Garten v. JPMorgan Chase Bank, N.A.

Present: **HONORABLE FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE**

Melissa H. Kunig

N/A

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

Not Present

Not Present

**PROCEEDINGS: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE
DISMISSED FOR LACK OF PROSECUTION AND SETTING
BRIEFING AND HEARING SCHEDULE**

On December 27, 2022, counsel for Plaintiff Michael Stewart Garten (“Plaintiff”) filed a Motion to Withdraw as Counsel (“Motion to Withdraw”). (Dkt. 31.) Defendant JPMorgan Chase Bank, N.A. (“Defendant”) does not oppose the Motion. (Dkt. 33.) On February 2, 2023, the court held a hearing on the Motion to Withdraw. (Dkt. 35.) Plaintiff did not attend the hearing. (*Id.*) At the hearing, Plaintiff’s counsel stated that prosecution of this case has been hampered by his firm’s inability to contact Plaintiff. (*Id.*) At the hearing, the court also noted that Defendant’s Motion to Dismiss is currently set for March 2, 2023. (Dkt. 34.)

At this juncture, the court finds that the record is not clear as to whether Plaintiff intends to continue prosecuting this action. Accordingly, the court **ORDERS** the following:

1. Plaintiff’s counsel must make best and reasonable efforts to contact Plaintiff regarding prosecution of this action and document these efforts in a declaration. Such declaration must be filed by **February 27, 2023, at 12:00 p.m.**
2. Plaintiff is **ORDERED** to show cause at a hearing why this action should not be dismissed for lack of prosecution, including Plaintiff failing to stay in contact with his counsel of record. The hearing shall be held in-person on **March 2, 2023, at 10:00 a.m.** in Courtroom 10D of the Ronald Reagan Federal Building and United

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States Courthouse, 411 West 4th Street, Santa Ana, California, 92701. Failure to adequately comply with the court's order may result in dismissal with prejudice and without further notice. *See Fed. R. Civ. P. 41(b); Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 (1962) ("The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted."); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) ("[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances."); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984) ("It is within the inherent power of the court to sua sponte dismiss a case for lack of prosecution.").

3. The hearing for the Plaintiff's Motion to Withdraw as Attorney (Dkt. 31) is **CONTINUED to March 2, 2023, at 10:00 a.m.** The hearing shall be held in-person in Courtroom 10D of the Ronald Reagan Federal Building and United States Courthouse.
4. The hearing for Defendant's Motion to Dismiss (Dkt. 34) is **CONTINUED to April 6, 2023, at 10:00 a.m.** The hearing shall be held in-person in Courtroom 10D of the Ronald Reagan Federal Building and United States Courthouse. The briefing schedule for the Motion to Dismiss is adjusted as follows: (1) Plaintiff's Opposition to the Motion to Dismiss, if any, shall be filed on or before **March 23, 2023**; and (2) Defendant's Reply in Support of the Motion to Dismiss, if any, shall be filed on or before **March 30, 2023**.

IT IS SO ORDERED.

Initials of Deputy Clerk: mku